

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

Vinod Kumar

Vs. State of Rajasthan & Anr.

S.B.CR.MISC. PETITION NO.477/2005

DATE OF ORDER

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August 22, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.S.G.Ojha, for the petitioner.

Mr.Ashok Upadhyaya, Public Prosecutor.

Mr.S.S.Dhillon, for the complainant.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks quashing of FIR No.420/2004 dt. 2.12.2004, Police Station, Purani Abadi, Sri Ganganagar for the offences under sections 406 and 498-A I.P.C.

I have heard learned counsel for the petitioner and the Public Prosecutor for the State as well as the counsel appearing for the complainant. Carefully gone through the first information

report.

It is contended by the learned counsel for the petitioner that though the marriage between the petitioner and the complainant was solemnized at Purani Abadi, Sri Gangangar but thereafter the parties started living at Lucknow and then Allahabad and lastly at village Bhattu Kalan, which according to the learned counsel is situated in the territorial jurisdiction of State of Haryana and, therefore, no cause of action arose at Purani Abadi, Sri Ganganagar. The Court at Sri Ganganagar has no territorial jurisdiction to try the case as also the police has no jurisdiction to investigate the matter.

Learned counsel for the petitioner has relied on a decision of this Court in Dinesh Kumar Sharma & Ors. vs. State of Rajasthan & Ors., **2006 (1) Cr.L.R. (Raj.) 822**, wherein this Court has held that since all the acts and omissions were done at Gwalior, therefore, the cause of action arose in Gwalior and not in Jaipur. Hence, the Court at Jaipur do not have the territorial jurisdiction to try the case.

The aforesaid judgment relied on by the learned counsel for the petitioner in Dinesh Kumar Sharma & Ors. Vs. State of Rajasthan & Ors. (supra) is of no help to the petitioner for the

reason that the provisions of sub-section (4) of section 181 Cr.P.C. has not been considered in the said judgment.

Learned Public Prosecutor and the counsel appearing for the complainant submit that the first information report discloses the cognizable offence and the part of cause of action arose at Purani Abadi, Sri Ganganagar, which is evident from the averments made in the FIR lodged by the complainant. The complainant specifically averred in the FIR that the marriage between her and the petitioner was solemnized at Purani Abadi Sri Ganganagar on 7.7.2003. It has also been specifically averred that at the time of marriage, various dowry articles were given to the complainant and were entrusted to the petitioner and other co-accused at Purani Abadi, Sri Ganganagar by the adoptive parents of the complainant, detail of which has been given in the first information report. It has specifically been averred that the dowry articles, which is the "Stridhan" of the complainant, were entrusted to the petitioner and the other co-accused at Purani Abani, Sri Ganganagar and on demand, the accused-petitioner and other accused-persons refused to return the dowry articles and, thereby committed the offence of criminal misappropriation and, therefore, the cause of action arose at Purani Abadi, Sri Ganganagar. Sub-section (4) of section 181 Cr.P.C. provides that any offence of criminal

misappropriation or of criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject of the offence was received or retained, or was required to be returned or accounted for, by the accused person.

From plain reading of sub-section (4) of section 181 Cr.P.C., it is more than clear that the place of investigation and trial for the offence of criminal misappropriation or criminal breach of trust is the place where the property which is the subject of the offence was received or retained or was required to be returned or accounted for by the accused-persons.

In the instant case, the property, which is the subject-matter of offence i.e. the dowry articles belonging to the complainant as her "Stridhan" were received by the present petitioner at Purani Abadi, Sri Gananagar. Therefore, in view of the provisions of sub-section (4) of section 181 Cr.P.C., part cause of action arose at Purani Abadi, Sri Ganganagar.

Learned counsel for the complainant-non-petitioner No.2 has relied on a decision of this Court in Gyan Singh vs. State of Rajasthan, **1999(1) R.C.C. 451**. On the similar facts, this Court held that it is not proper to express any opinion on the point that

the demand by the father, of the property given in dowry in the marriage of his daughter, would amount to the demand on behalf of his daughter or not. At this stage, only it is relevant that in the FIR it has been stated that the petitioner refused to give back the property of Ranju Bala. It may be that the demand and denial are said to have taken place in Punjab but that would not oust the jurisdiction of the Raisingh Nagar police as under section 181(4) Cr.P.C. and offence of misappropriation or criminal breach of trust may be inquired into or tried by a Court within whose local jurisdiction the offence was committed or any part of the property which is the subject to the offence was received or retained, or was required to be returned or accounted for by the accused person. It is obvious that the Court in whose local jurisdiction the property was received also has got jurisdiction to try the offence.

The decision relied on by the learned counsel for the petitioner in Dinesh Kumar Sharma & Ors. Vs. State of Rajasthan & Ors. (supra) is of no help to the petitioner for the reason that the provision of section 181(4) Cr.P.C., which is very much specific to decide the place of trial of the case where act is offence of criminal misappropriation or of criminal breach of trust has neither been brought to the notice of learned Single Judge nor considered in that decision and, therefore, the decision in

the case of Dinesh Kumar Sharma & Ors. Vs. State of Rajasthan is per incurium. However, the decision relied on by learned counsel for the non-petitioner in Gyan Singh vs. State of Rajasthan (supra) fully applies on the facts of the present case. In this view of the matter no case for quashing the FIR on the ground of territorial jurisdiction is made out.

Consequently, the cr.misc.petition is dismissed. Ad interim stay order dt. 23.5.2005 is vacated. The stay petition also stands dismissed.

[H.R.PANWAR],J.

m.asif/-